

STATE OF INDIANA ) IN THE ALLEN SUPERIOR COURT  
 ) SS:  
COUNTY OF ALLEN )  
  
MALGORZATA PIOTROWSKA and )  
WOJCIECH ROSIAK, )  
Plaintiffs )  
 )  
v. )  
 )  
WALMART, INC., )  
Defendant )

**PLAINTIFF'S COMPLAINT FOR DAMAGES AND JURY DEMAND**

Plaintiffs Malgorzata Piotrowska and Wojciech Rosiak, by counsel, Linda A. Polley and John O. Feighner, for their Complaint for Damages against Defendant Walmart, Inc., state as follows:

**THE PARTIES**

1. Plaintiffs Malgorzata Piotrowska ("Maggie") and Wojciech Rosiak ("Wojtek") are husband and wife, and they are residents of Fort Wayne, Allen County, Indiana.
2. Defendant Walmart, Inc. ("Walmart") is a Delaware corporation with its principal place of business located at 702 SW 8<sup>th</sup> Street, Bentonville, Arkansas 72716, doing business in the state of Indiana. The registered agent for Walmart is CT Corporation System, 334 North Senate Avenue, Indianapolis, Indiana 46204.
3. Walmart owns and operates a Walmart Supercenter store, Facility No. 4230, located at 10105 Lima Road, Fort Wayne, Indiana 46818 at all material times hereto.
4. At all times that she was on the property of Walmart, Maggie was a business invitee of the Defendant, Walmart, Inc.

### **FACTUAL ALLEGATIONS**

5. On November 30, 2021, Maggie, a business invitee of Walmart, was grocery shopping in the Walmart Supercenter store, Facility No. 4230. While reaching for an item on a shelf, Maggie was suddenly and unexpectedly struck from her right side and knocked to the floor, causing immediate and severe pain to her pelvic area and spine (the “incident”).

6. From the floor, Maggie observed a pallet jack loaded with boxes and being operated by a female employee of Walmart. The female employee acknowledged hitting Maggie with the pallet jack and stated that she was looking the other way.

7. Maggie lay on the floor in severe pain and unable to move until EMS responders arrived and transferred her to Lutheran Hospital.

8. While lying on the floor awaiting medical help, Maggie observed a surveillance camera on the ceiling directly above her head.

9. Upon arrival at Lutheran hospital, Maggie underwent multiple diagnostic tests including, but not necessarily limited to, x-rays and CT scans.

10. Maggie was initially diagnosed with an L2 compression fracture to her spine, as well as a sacral fracture.

11. Maggie was discharged from Lutheran Hospital on December 2, 2021 and upon her physicians’ recommendation began conservative treatment.

12. Maggie remained physically disabled for several weeks, unable to work in her job as a physical therapist and unable to do simple household tasks.

13. After three months of conservative treatment, Maggie was released by her doctor to return to work under a 15-pound weight restriction. However, her employer would not allow her to return at that time as she could not perform the essential functions of her job under those

restrictions.

14. Maggie has undergone and continues to undergo treatment, including physical therapy, since the date of her injury.

15. Maggie suffered and continues to suffer severe pain and emotional distress due to the nature and extent of her injuries.

16. Due to the nature and extent of her injuries and her inability to return to her profession as a physical therapist, Maggie sustained significant lost wages, loss of overtime opportunities, and loss of company benefits, including, but not limited to, PTO benefits.

17. Maggie has incurred medical expenses in excess of \$26,000.00 to date, and her treatment and expenses continue.

18. Wojtek witnessed the injuries his wife sustained in the incident, and he has suffered emotional distress and the loss of his wife's services and consortium during the period of time for her recuperation.

19. On December 2, 2021, Maggie's counsel sent an evidence preservation letter to Walmart, Inc. That letter specifically requested preservation of all audio recordings, security camera images and films, videotapes, and documents (including, but not limited to, incident reports and witness statements) relevant to and surrounding the incident which occurred on November 30, 2021.

20. Defendant Walmart, its agents, servants, and employees failed to properly maintain the premises at Facility No. 4230 in a reasonable and safe manner on the date of this incident.

21. Defendant Walmart, its agents, servants, and employees were negligent in failing to exercise reasonable and appropriate care in order to ensure the safety of its invitees on the date of this incident.

22. Defendant Walmart, its agents, servants, and employees were negligent in failing to properly train its employees to operate equipment, including pallet jacks, in a reasonable and safe manner.

23. Defendant Walmart, its agents, servants, and employees were negligent in failing to properly provide a safe environment for its invitees to shop and move about its store.

24. Defendant Walmart, its agents, servants, and employees were negligent in utilizing its pallet jack during business hours in a merchandising/retail area within close proximity to its business invitees.

25. Defendant Walmart, its agents, servants, and employees were negligent in failing to follow pallet jack safety procedures and protocols to ensure the safety of its business invitees.

**WHEREFORE**, Plaintiffs Malgorzata Piotrowska and Wojciech Rosiak pray for damages against Defendant Walmart, Inc. in an amount that will fully and fairly compensate them for their injuries and damages, costs of this action, prejudgment interest, and all other proper relief in the premises.

**Respectfully submitted,**

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**JURY DEMAND**

Plaintiffs demand trial by jury in the above cause.

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